

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS

CARLOS PENDERGRASS )  
vs. Plaintiff, ) Civil Action No. 7:11-cv-00092  
NATIONAL CREDIT WORKS, INC. )  
Defendant, )

**VERIFIED COMPLAINT AND DEMAND FOR JURY TRIAL**

CARLOS PENDERGRASS, ("Plaintiff"), through the undersigned counsel, DAVE LILLEY, alleges the following against NATIONAL CREDIT WORKS, INC., ("Defendant"):

**INTRODUCTION**

1. This is an action for actual and statutory damages brought by plaintiff Carlos Pendergrass an individual consumer, against defendant National Credit Workers, Inc., for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (hereinafter "FDCPA") which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices.

**JURISDICTION**

2. Jurisdiction of this court arises under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1337. Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and 2202. Venue in this District is proper in that the Defendant transacts business here and the conduct complained of occurred here.

PARTIES

3. Plaintiff, Carlos Pendergrass is a natural person residing in Midland County, in the state of Texas.

4. Defendant, National Credit Works, Inc. is a corporation engaged in the business of collecting debt in this state with its principal place of business located at. National Credit Works, Inc., 3719 Union Road, Suite 221 Cheektowaga, NY 14225. The principal purpose of Defendant is the collection of debts in this state and Defendant regularly attempts to collect debts alleged to be due another.

5. Defendant is engaged in the collection of debts from consumers using the mail and telephone. Defendant regularly attempts to collect consumer debts alleged to be due to another. Defendant is a “debt collector” as defined by the FDCPA, 15 U.S.C. § 1692a(6).

FACTUAL ALLEGATIONS

6. Within one year of the filing of this complaint, Defendant placed collection calls to Plaintiff, seeking and demanding payment for an alleged consumer debt that is allegedly owed under an account number.

7. Upon information and belief, Defendant began placing collection calls to Plaintiff in 2008.

8. Upon information and belief, Plaintiff did not receive written notification from Defendant within five days of the initial communication that included the amount of the alleged debt that Defendant was attempting to collect.

9. Upon information and belief, during collection calls on or around February 28, 2011, Defendant has lied to, or at the very least misled Plaintiff; threatening, "Sir, the reason I'm calling is because the attorneys are going in to the district attorney's office to file for fraud."

10. To date, Defendant has not commenced litigation against Plaintiff; it does not even have the legal standing to do so.

11. Upon information and belief, during collection calls, one of Defendant's agents spoke to Plaintiff's wife and told her, that Plaintiff was, "[G]oing to be arrested if he doesn't call in with the pay amount."

12. To date, criminal charges have not been brought against Plaintiff.

13. Upon information and belief, three times during the seven day period prior to March 1, 2011, Defendant was given knowledge that calls to Plaintiff's workplace-issued cellular phone, both inconvenience Plaintiff and are prohibited by Plaintiff's employer.

14. Upon information and belief, Defendant continued to call Plaintiff on his workplace issued cellular phone; sometimes 3-4 times a day.

15. As a result of the acts alleged above, Plaintiff suffered emotional distress resulting in his feeling stressed.

#### CLAIM FOR RELIEF

16. Plaintiff repeats and realleges and incorporates by reference to the foregoing paragraphs.

17. Defendant violated the FDCPA. Defendant's violations include, but are not limited to, the following:

(a) Defendant violated §1692e(10) of the FDCPA by using false, deceptive, or misleading representation or means in connection with the collection of Plaintiff's alleged debt; and

- (b) Defendant violated §1692f of the FDCPA by using unfair or unconscionable means in connection with the collection of an alleged debt; and
- (c) Defendant violated §1692g(a)(1) of the FDCPA by failing to send written notification to Plaintiff that is received within five days of the initial communication, with said notification including the amount of the alleged debt that the Defendant was attempting to collect; and
- (d) Defendant violated §1692e(5) of the FDCPA by threatening to take action that it did not intend to take; and
- (e) Defendant violated §1692a(3) by calling Plaintiff's place of employment with knowledge or the reason to know that the consumer's employer prohibits the consumer from receiving such communication, without the prior consent of Plaintiff given directly to Defendant or the express permission of a court of competent jurisdiction.

18. Defendant's acts as described above were done intentionally with the purpose of coercing Plaintiff to pay the alleged debt.

19. As a result of the foregoing violations of the FDCPA, Defendant is liable to the plaintiff Carlos Pendergrass for declaratory judgment that Defendant's conduct violated the FDCPA, actual damages, statutory damages, and costs and attorney fees.

WHEREFORE, Plaintiff CARLOS PENDERGRASS respectfully requests that judgment be entered against defendant National Credit Works, Inc., for the following:

- A. Declaratory judgment that Defendant's conduct violated the FDCPA.
- B. Actual damages.
- C. Statutory damages pursuant to 15 U.S.C. § 1692k.
- D. Costs and reasonable attorney fees pursuant to 15 U.S.C. § 1692k.
- E. For such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff CARLOS PENDERGRASS demands trial by jury in this action.

This 17<sup>th</sup> day of August, 2011.

ALEX SIMANOVSKY & ASSOCIATES, LLC

/s/ *Dave Lilley*

Dave Lilley, Esq.  
TX Bar No. 24035064  
Attorney for Plaintiff

Alex Simanovsky & Associates, LLC  
1912 Loop 11  
Wichita Falls, TX 76306  
Phone: 1-866-865-3666, Ext. 1056  
Fax: 877-570-5413

Corporate Office Address:  
2300 Henderson Mill Road, Suite 300  
Atlanta, GA 30345  
Phone: (770) 414-1002, Ext. 1012  
Fax: (770) 414-9891